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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,883	05/03/2001	David Allen Roberts	05918P2 USA	5807
23543	7590	10/22/2003		
AIR PRODUCTS AND CHEMICALS, INC. PATENT DEPARTMENT 7201 HAMILTON BOULEVARD ALLENTOWN, PA 181951501			EXAMINER BOYD, JENNIFER A	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/847,883	Applicant(s) ROBERTS ET AL.	
	Examiner Jennifer A Boyd	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 - 11, 13 - 20 and 22 - 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 - 11, 13 - 20 and 22 - 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1 page</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed July 28, 2003, have been entered and have been carefully considered. Claims 1 – 3, 12 and 21 are cancelled, claims 4 – 11, 13 – 20 and 22 have been amended, claim 23 has been added and claims 4 – 11, 13 – 20 and 22 – 23 are pending. In view of Applicant's Amendment, the Examiner withdraws the 35 U.S.C. 112, 2nd paragraph rejection of claims 1 – 22 as set forth in paragraphs 1 – 3 of the previous Office Action dated February 27, 2003. In view of the Applicant's Amendments, the Examiner withdraws all previous rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) of claims 1 – 22 as set forth in paragraphs 4 – 13 of the previous Office Action dated February 27, 2003. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 4 - 9, 11 and 23 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pedersen et al. (US 6,017,872).

Pedersen is directed to compositions and process for cleaning and finishing hard surfaces (Title).

As to claim 23, Pedersen et al. teaches a cleaning solution that comprises a nonionic surfactant and water (column 10, lines 20 – 28). The nonionic surfactant can be acetylenic diols (such as Surfynol ® 104 and Surfynol ® 82) (column 6, lines 8 – 12). The nonionic surfactant is added in amounts that range from about 0.1% to about 10% - wt. (column 4, lines 13 – 15). Pedersen teaches that typical cleaning solutions are applied to a surface and then mechanically contacted with cleaning towels (column 1, lines 28 – 33). The Examiner equates the mechanical contact of the towel with the solution-wetted surface to Applicant's "wipe substrate wetted with the aqueous solution". It should be noted that the phrase "consisting essentially of" is construed equivalent to "comprising" since the Applicant has not demonstrated how the addition of sulfonates would materially affect the basic and novel characteristics of the invention.

As to claims 4 – 5, Pedersen teaches that the nonionic surfactant is added in amounts that range from about 0.1% to about 10% - wt. (column 4, lines 13 – 15).

As to claim 8, Pedersen teaches that the nonionic surfactant can be 3,6-dimethyl-4-octyne-3,6-diol (Surfynol ® 82) (column 6, lines 8 – 12).

As to claim 9 and 11, Pedersen teaches that the nonionic surfactant can be 2,4,7,9-tetramethyl-5-decyne-4,7-diol (Surfynol ® 104) (column 6, lines 8 – 12).

As to claim 6, 7 and 23, although Pedersen et al. does not explicitly teach the claimed vapor pressure of at least 10^{-4} torr at 25°C as required by claims 23 and 6 and vapor pressure of at least 10^{-3} torr at 25°C as required by claim 7, it is reasonable to presume that vapor pressure of at least 10^{-4} torr at 25°C as required by claims 23 and 6 and vapor pressure of at least 10^{-3} torr at 25°C as required by claim 7 is inherent to Pedersen et al.. Support for said presumption is found in the use of like materials (i.e. a cleaning composition that includes a nonionic surfactant and water), which would result in the claimed property. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of vapor pressure of at least 10^{-4} torr at 25°C as required by claims 23 and 6 and vapor pressure of at least 10^{-3} torr at 25°C as required by claim 7, it is reasonable to presume that vapor pressure of at least 10^{-4} torr at 25°C as required by claims 23 and 6 and vapor pressure of at least 10^{-3} torr at 25°C as required by claim 7 would obviously have been present Pedersen product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

Claim Rejections - 35 USC § 103

5. Claim 10, 13 – 15, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al. (US 6,017,872) in view of Julemont (US 4,931,201).

As to claims 20 and 22, Pedersen is directed to compositions and process for cleaning and finishing hard surfaces (Title). Pedersen et al. teaches a cleaning solution that comprises a nonionic surfactant and water (column 10, lines 20 – 28). The nonionic surfactant can be acetylenic diols (such as Surfynol ® 104 and Surfynol ® 82) (column 6, lines 8 – 12). It should be noted that the chemical formula for Surfynol ® 82 is 3,6-dimethyl-4-octyne-3,6-diol and for

Art Unit: 1771

Surfynol ® 104 is 2,4,7,9-tetramethyl-5-decyne-4,7-diol (column 6, lines 8 – 12). The nonionic surfactant is added in amounts that range from about 0.1% to about 10% - wt. (column 4, lines 13 – 15). Pedersen teaches that typical cleaning solutions are applied to a surface and then mechanically contacted with cleaning towels (column 1, lines 28 – 33). The Examiner equates the mechanical contact of the towel with the solution wetted surface to Applicant's "wipe substrate wetted with the aqueous solution". It should be noted that the phrase "consisting essentially of" is construed equivalent to "comprising" since the Applicant has not demonstrated how the addition of sulfonates would materially affect the basic and novel characteristics of the invention.

As to claim 10, 15 and 20, Pedersen teaches the claimed invention except fails to teach the composition of the cleaning towel, or Applicant's "substrate".

Julemont is drawn to pads impregnated with cleaning solutions. Julemont teaches a non-woven cloth that comprises a mixture of polypropylene and wood pulp fibers (cellulose) that is impregnated with a cleaner (Abstract).

It would have been obvious and necessary for one of ordinary skill in the art practicing the invention of Pedersen to provide the details of the composition of the cleaning towel, or Applicant's "substrate". As a substrate with a mixture of polypropylene and wood pulp fibers provide a balance of durability provided by the synthetic fibers and absorptivity provided by the wood pulp fibers, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the cloth of Julemont in the invention of Pedersen, motivated by the expectation of successfully practicing the invention of Pedersen.

As to claims 13 – 14, Pedersen in view of Julemont teaches the claimed invention except fails to teach that the pad is a woven, fibrous substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to produce a non-abrasive and non-residue leaving pad as a woven substrate. A woven substrate is a known alternative to non-woven. The woven substrate would have increased structural integrity and thus durability during cleaning (i.e., scrubbing and wiping).

As to claim 20, although Pedersen et al. (US 6,017,872) in view of Julemont (US 4,931,201) does not explicitly teach the claimed vapor pressure of at least 10^{-4} torr at 25°C, it is reasonable to presume that vapor pressure of at least 10^{-4} torr at 25°C is inherent to Pedersen et al. in view of Julemont. Support for said presumption is found in the use of like materials (i.e. a cleaning composition that includes a nonionic surfactant and water), which would result in the claimed property. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of vapor pressure of at least 10^{-4} torr at 25°C, it is reasonable to presume that vapor pressure of at least 10^{-4} torr at 25°C would obviously have been present Pedersen in view of Julemont product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al.(US 6,017,872) in view of Kramer et al. (US 4,847,089).

Pedersen teaches the claimed invention except fails to disclose impregnating a sponge with the cleaning solution.

Kramer et al. is drawn to cleansing compositions impregnated in a sponge. Kramer teaches using an impregnated sponge to dispense cleansing fluid (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to impregnate a sponge with the cleaning solution taught by both Angelina references, Medina and Pedersen et al. because the solutions are most efficiently spread when impregnated on a wipe or pad and the sponge would absorb the solution and evenly spread the solution without leaving a residue.

7. Claim 17 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al. (US 6,017,872).

Pedersen teaches that the water in the solution can be soft water (see Table 1). Although this does not necessary mean high purity, distilled or deionized water, it would have been obvious to one of ordinary skill to use high purity, distilled or deionized water because that would lower impurities and residue left behind by the cleaning solution.

Response to Arguments

8. Applicant's arguments with respect to claims 1 - 20 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments with respect to claims 20 and 22 have been fully considered but they are not persuasive.

With respect to Applicant's arguments that the combination of Pedersen in view of

Art Unit: 1771

Julemont does not provide the cleaning cloth of amended claim 20, the Examiner respectfully argues the contrary. It should be noted that, as the Applicant has stated, that the transitional phrase “consisting essentially of” limits the scope of a claim to the specified materials or steps “and those that do not materially affect the basic and novel characteristic(s)” of the claimed invention. In re Herz, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976). The burden is upon the Applicant to show that the additional components do affect the basic and novel characteristics of the invention. The Applicant has stated that the addition of sulfonates *would* affect at least one of the basic and novel characteristics but has failed to demonstrated *how* the addition of sulfonates would materially affect the basic and novel characteristics of the invention. Therefore, the Examiner has interpreted “consisting essentially of” to “comprising” and, in turn, the combination of Pedersen in view of Julemont remains valid.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


Art Unit: 1771


CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jennifer Boyd
October 14, 2003


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